

Update: Criminal Procedure Monograph 3—Misdemeanor Arraignments & Pleas (Third Edition)

Part B—Commentary on Pleas

3.40 Appealing a Plea-Based Conviction

Insert the following text near the middle of page 75 before the paragraph beginning with “A defendant may challenge his or her guilty plea...”:

See *People v William Fitzgerald James*, ___ Mich App ___, ___ (2006), where the Court of Appeals reiterated the ruling in *Halbert v Michigan*, 545 US 605 (2005), that an indigent defendant has the right to appointed counsel for the purpose of seeking leave to appeal to the Michigan Court of Appeals. The Court noted also that, pursuant to *Halbert, supra*, the defendant had “not waive[d] his right to the appointment [of appellate counsel] at the time of entering his guilty plea on the basis of the circuit court’s mere advisement that waiver would occur.” *William Fitzgerald James, supra* at _____. Because no right to appellate counsel existed at the time the defendant pleaded guilty, the defendant could not have “intentionally relinquish[ed] a known right.” *Id.* at _____.